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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,782	11/13/2002	Richard Verrault	2126.005	5078
21917	7590	08/01/2005	EXAMINER	
MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410			NOLAND, KENNETH W	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/787,782

Applicant(s)

VERRAULT ET AL.

Examiner

Kenneth W. Noland

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Art Unit: 3653

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. \*In regard to this, claim 11 on line 9, recites "with corrugations" and this recitation is not disclosed in the specification. Also in claim 12, the entire recitation of the claim is not described in the specification. Correction is required.\*\*.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claim 11 and 12, as noted above, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

Art Unit: 3653

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,6,7,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Fitzpatrick et al in view of Silvers and Bonk. As the claims would be understood, Fitzpatrick et al shows in figure 6 a dispenser having a container 20 with a lid 15 where the lid and container make a water tight seal. Note the "inner box" 16 having the opening 17 through which wet sheets may be dispensed there trough. The member 16 is also removable. To provide that Fitzpatrick et al's box member 16 would be inverted to so hold a stack of sheets would be obvious not only as a mere choice to so invert the member and so support a stack of sheets, as so desired, but Silvers shows in figure 3 the use of an 'inverted' box 36 to also hold a stack of sheets so that Fitzpatrick et al's dispenser would provide various types of utility for the member 16. To modify Fitzpatrick et al's opening of the member 16 for one having a serrated type

Art Unit: 3653

(claim 1) or even a slot type of opening(claim 11) would be obvious in view of the teachings of Bonk's use of the serrated opening 12 in figure 7 or the use of the slot type 12 opening in figure 4, so as to provide various type of openings for the dispenser. In regard to claim 11, the use of corrugations for Fitzpatrick et al's slot would be obvious as a mere choice of structural design , and, therefor, this feature is not afforded any patentable weight. Also, in regard to claim 12 the specific dimensions fro Fitzpatrick et al's slot for the crest , troughs and amplitude would be obvious as a mere choice of structural design, and therefore this feature is not afforded any patentable weight.\*\*.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Fitzpatrick et al in view of Silvers and Bonk\*\* as applied to claims 1,6,7,11 and 12\*\*\* above, and further in view of \*Baughman. To provide Fitzpatrick et al's lid for a container to be received by the lid, would be obvious in view of the teachings of Baughman's use of the lid-type member 3 shown in figure 5 to also receive the container 16 having the dispensing opening 17 so that Fitzpatrick et al's\*dispenser would hold multiple containers to effect various dispensing of other articles.\*.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over \*Fitzpatrick et al in view of Silvers and Bock\*\* as applied to claims 1,6,7,11,12\*\*\* above, and further in view of \*Foos. To modify Fitzpatrick et al's water tight seal between the container and the lid for one utilizing lower 'male' sides to be received by upper 'female' sides, would be obvious in view of the teachings of Foos' use of the upper female sides 56,58 shown in figure 2 to receive the lower male sides 14,30 to also form a seal for wet wipes.\*\*.

Art Unit: 3653

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over \*Fitzpatrick et al in view of Silvers and Bock \*\* as applied to claims 1,6,7,11,12\*\*\* above, and further in view of \*Tisbo et al. To modify Fitzpatrick et al's box member 16 for one having a partition to separate articles thereon would be obvious in view of the teaching of Tisbo et al's use of the partition(s) 56,54 shown in figure 6 to also separate articles to be withdrawn upwardly from the container.\*\*.

9. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Should applicant desire that the references be made an official record, then the references need to be entered in a form(PTO 1449) as required by 37 CFR 1.98 (a).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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KENNETH W. NOLAND  
PRIMARY EXAMINER